Open Access Fisheries Under GOA Rationalization

NMFS Alaska Region Staff

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Overview

The alternatives, elements, and options under considerations by the Council retain aspects of "open access" fisheries. This paper is intended to describe staff's understanding of those "open access" fisheries and some of the issues that could arise if an alternative containing an open access component were adopted by the Council. Clearly, the primary concern is that the smaller the allocation to an open access fishery and the greater the harvest rate, the more restrictive management will need to be in order to ensure that the open access fishery would not exceed its allocation and compromise the stock or the rationalized fishery. Catch accounting and bycatch management will be key components in determining how NMFS will manage an open access fishery and whether such a fishery can be opened. Within the elements and options established by the Council, there are three forms of open access fisheries. The first would be formed for participants in a mandatory cooperative program that choose not to join a cooperative. The second is the jig fishery. The third is composed of species that are not part of the rationalization program, and thus not allocated with harvest shares. In addition, aspects of the incentive fisheries are very similar to an open access fishery and are briefly discussed.

Open Access Under the Alternatives

All three of the alternatives under consideration retain some element of open access. Under the no action alternative, fishing would continue under the existing LLP regulations. The two action alternatives would require that vessels either enter into a mandatory fishery cooperative to receive their individual catch history within that cooperative -- or fish in the open access fishery. Under Alternative 2, low producing fixed gear vessels could choose not to join a cooperative. Staff assumes that they would not be permitted to fish in the open access fishery and would receive individual fishing quota (IFQ) instead.

The rationalization alternatives provide for a few different open access fisheries. First, the open access fishery accessible to participants that choose not to join cooperatives is described in Section 4.6 of the Council's motion. The open access fishery is presented as an option available to participants eligible to receive a harvest share allocation that choose not to join a cooperative. Second, under Section 2.1 of the Council motion, jig gear is exempted from the rationalization program. The jig fisheries would either be granted a separate allocation based on historic landings in each fishery to be fished under an open access regime, or the jig allocation would be taken "off the top" from the current year's TAC based on harvests during the previous year. The Council could also adopt provisions to cap the jig gear harvests at a level slightly above historic harvests. Third, under Section 2.3.1 of the Council's motion, another potential mechanism exists for the creation of an open access fishery because certain fisheries are not allocated as harvest shares – specifically, "other rockfish" and "other species." It is assumed that species that are not explicitly allocated under a harvest share system would be available under an open access fishery. In any case, provision for their management should be considered by the Council.

Clarification: Staff assumes that under Alternative 2, participants in the Fixed Gear CV Low Producer Category would be not eligible to fish in the open access fishery. These participants would receive individual allocations based on their historic participation.

Clarification: Staff assumes that the jig allocation would be fished separately from those using other gear

types that chose open access over cooperatives. Combining both of these open access pools could create conflicts between gear types and infringe on jig participation in the groundfish fisheries.

Clarification: Staff assumes that the "other species" would be managed as a bycatch species, with the possible exception of skates which could be assigned a TAC. Approaches to "other species" management are currently under development by an *ad hoc* working group. Staff would also assume that "other rockfish" would be considered for allocation as a bycatch species under Section 2.4 of the Council's motion unless additional guidance is provided.

Catch Accounting

A key decision for managers before opening an open access fishery is to determine how much of an allocation will be available for harvest and the amount of bycatch that may be required to effectively harvest the target species. Under Section 4.6, participants in open access would have access to the combined total of the catch history represented by those vessels belonging to a specific area, vessel type, or gear (i.e., sector). NMFS would determine the allocation of bycatch among those target fisheries. Under this scenario, there could be numerous open access pools within each area. For example, under Alternative 2, Trawl CVs, CPs, and fixed gear high producing CVs would all have separate open access allocations and fisheries. This construction means that under Alternative 3 there could potentially be a total of six open access pools in a given area based on the allocation criteria in Section 2.3.1 (i.e., Trawl CV, Trawl CP, Longline CV, Longline CP, Pot CV, and Pot CP). When combined with the management areas under consideration (WY, CG – which is further divided into Areas 620 and 630 for pollock, and WG) this represents a total of 18 possible open access pools with bycatch accounting required for each fishery. Additionally, if jig gear is managed as a separate open access allocation, then there would be three additional pools for the jig fishery for each of the management areas as well.

The size of each of these open access pools would vary from year to year based on the number of eligible participants within that area, vessel, and gear type that chose to participate in the open access fishery. Predicting the number of participants, the amount of bycatch allocation needed and available, and the percentage of the TAC that this might represent cannot be determined with any certainty. However, given the number of divisions possible and the potential that most eligible participants will choose to join a cooperative, the overall allocations to an open access fishery pool could be relatively small. The smaller the open access allocation and the greater the potential harvest rate of the vessel type in an area, the greater the risk for exceeding the allocation, and therefore, the more strictly NMFS will need to manage the fishery to ensure that the open access TACs are not exceeded.

Section 2.4, Option 2 of the Council's motion would establish a pro-rata reduction for participants in the "open access" fisheries. It is not clear if this reduction would apply to all participants in an open access fishery, or if this potential restriction would apply only to participants in the incentive fishery using bycatch harvest-share. Additionally, the Matrix developed by the Council indicates that under both Alternative 2 and 3, vessels would be allowed to fish open access with "bycatch allowance reductions." The specific mechanism for those reductions is not provided in the Main Motion. **The Council may want to clarify how "bycatch allowance reductions" would apply in the open access fisheries.** In any case, if the open access fisheries were conducted with bycatch limited more than historical harvest rates, this would increase the level of precaution in those fisheries that are bycatch limited, reducing the likelihood of opening those fisheries.

The Council might consider whether threshold harvest share holdings should be required for participation in an open access fishery. If a person has a very small allocation, remaining in an open access fishery for

the first two years of the program could be very appealing as other participants with larger allocations attempt to sort out cooperative membership and agreements. These relatively small participants could exploit the inability of larger participants to resolve contract disputes that are likely to arise in the transition from the current derby fishery to the cooperative structure. **The Council should consider defining eligibility to participate in the open access fisheries.**

Generally speaking, the fisheries that are likely to require the closest control are fisheries that are accessible to a wide range of vessel sizes, gear types, and are historically fully harvested. A good example of such a fishery would be Pacific cod, which is further divided among State and Federal management and may receive a smaller percentage of the overall TAC allocation if additional management measures are recommended under parallel fishery management (Section 2.2.3 – Please see "Issues Concerning the Management of the Parallel Fisheries in the Gulf of Alaska Groundfish Fisheries"). Pacific cod harvested with trawl and hook-and-line gear require additional allocations of PSC halibut, which could be a constraining factor. Pollock, trawl sablefish, and Pacific Ocean Perch are typically fully prosecuted in the trawl fisheries and have relatively high harvest rates which could require careful accounting. If cooperatives form, the open access fishery likely will be a small component of the TAC; depending on the number and type of vessels participating, the harvest rate could vary from current levels. If the allocation is small enough, the harvest rates high enough, and the amount of bycatch allocation insufficient to "cover" the fishery, then that open access fishery would not be opened for directed fishing. Whether fisheries would remain closed cannot be predicted. The specific point at which this decision is made would vary from year to year based on that fishery. Thus, the open access fishery may not be a reasonable alternative to cooperative membership in all fisheries.

The decision to open an open access fishery could be affected by the ability to effectively monitor and account for catch so that managers can close the fishery in a timely fashion. This could include additional observer coverage or shore-based reporting necessary to ensure managers have data in a sufficient time frame to close an open access fishery when the allocation is reached. The extent of this additional monitoring would vary by area and fishery, with the need greatest in fisheries with small TACs relative to the potential harvest rates. These measures could either be established on a voluntary basis among vessels in the open access fishery, or NMFS and the Council could require additional observer coverage or monitoring requirements for specific open access fisheries.

If the open access allocation were exceeded, presumably there would not be a reduction in the harvest share allocation in the rationalized fishery. Given that many of the groundfish species are set with the TAC equal to the allowable biological catch (ABC), fishery managers will take the measures necessary to ensure that the open access fishery does not result in chronic overages of either the TAC or the ABC, which would undermine conservation objectives.

Management of Other Non-Harvest Share Fisheries

Initial Allocation of Species

Section 2.1 of the Council's motion establishes the management areas subject to rationalization and Section 2.3 establishes the species to be allocated among the various gear types. Section 2.4 describes the allocation of bycatch under consideration. Section 2.5 describes the allocation of PSC species, and Section 2.6 describes the allocation to the incentive fishery – a form of open access – with participation restricted to those vessels that are qualified to participate in the rationalized groundfish fisheries. **Table 1** provides an overview of the allocation of the various groundfish species by area and gear type.

Table 1: Allocation of Groundfish Species by Area and Gear Type

Area	Trawl	Hook and Line	Pot
Southeast Outside	**Target Allocation:** Trawl Catch history in SEO prior to 1998 would be allocated to West Yakutat (2.1). **Unallocated (Open Access):** All groundfish species	**Bycatch Allocation:** Thornyhead and Shortraker/Rougheye Rockfish in the Halibut and Sablefish IFQ Fishery, DSR, and Pacific Cod fishery (2.1). **Unallocated (Open Access):** All other groundfish species.	*Unclear* The language in 2.1 does not explicitly exclude a bycatch allocation to pot gear, but it is assumed to be excluded. **Unallocated (Open Access):** All groundfish species.
West Yakutat	**Target Allocation:** Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, arrowtooth flounder, northern rockfish, Pacific Ocean Perch, Pelagic Shelf Rockfish (2.3.1). *Note: Pacific cod is currently allocated to an Eastern GOA TAC (SEO & WY).* **Bycatch Allocation:** Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, trawl sablefish (2.4). *Option*: Trawl sablefish could be allocated as a new category of harvest shares usable by fixed gear. **PSC Allocation:** Halibut (2.5.2). **Incentive Fishery:** Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish. *Option*: make available the unharvested portion of the WYAK TAC as an incentive fishery (2.6). **Unallocated (Open Access):** Other rockfish, Other Species	**Target Allocation:** Pacific cod, deepwater flatfish *(if turbot is targeted)*, arrowtooth flounder, northern rockfish, Pacific Ocean Perch, Pelagic Shelf Rockfish (2.3.1). *Note: Pacific cod is currently allocated to an Eastern GOA TAC (SEO & WY).* **Bycatch Allocation:** Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, trawl sablefish (2.4). **PSC Allocation:** Halibut (2.5.2). **Incentive Fishery:** Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish. *Option*: make available the unharvested portion of the WYAK TAC as an incentive fishery (2.6). **Unallocated (Open Access):** Other Rockfish, Other Species, Pollock, rex sole, flathead sole, deepwater flatfish (*if turbot was not targeted*).	**Target Allocation:** Pacific cod (2.3.1). *Note: Pacific cod is currently allocated to an Eastern GOA TAC (SEO & WY).* **Bycatch Allocation:** Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, trawl sablefish (2.4). **PSC Allocation:** Exempted from halibut PSC (2.5.2). **Incentive Fishery:** Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish. *Option*: make available the unharvested portion of the WYAK TAC as an incentive fishery (2.6). **Unallocated (Open Access):** All other groundfish species.

Central & Western GOA	**Target Allocation:** Pollock, Pacific cod, deepwater flatfish, rex sole, flathead sole, arrowtooth flounder, northern rockfish, Pacific Ocean Perch, Pelagic Shelf Rockfish (2.3.1). **Bycatch Allocation:** Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, trawl sablefish (2.4) **PSC Allocation:** Halibut (2.5.2) **Incentive Fishery:** Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish (2.6) **Unallocated (Open Access):** Other Rockfish, Other Species	**Target Allocation:** Pacific cod, deepwater flatfish *(if turbot is targeted)*, arrowtooth flounder, northern rockfish, Pacific Ocean Perch, Pelagic Shelf Rockfish (2.3.1). **Bycatch Allocation:** Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, trawl sablefish (2.4). **PSC Allocation:** Halibut (2.5.2). **Incentive Fishery:** Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish (2.6). **Unallocated (Open Access):** Other Rockfish, Other Species, Pollock, rex sole, flathead sole, deepwater flatfish (*if turbot was not targeted*).	**Target Allocation:** Pacific cod (2.3.1). **Bycatch Allocation:** Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, trawl sablefish (2.4). **PSC Allocation:** Exempted from halibut PSC (2.5.2). **Incentive Fishery:** Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish (2.6). **Unallocated (Open Access):** All other groundfish species.

Table 1 shows that with rationalization, there is the possibility of several different types of additional catch accounting requirements even within the rationalized fisheries. First, there is the possibility of a form of open access in the incentive fishery for that portion of the TAC for those species that have not historically been fully harvested. NMFS would calculate the size of the incentive fishery depending on the years chosen for initial allocation and determine the amount of TAC that is left after determining the amount of QS to be allocated and the amount of TAC that this catch history represents. These data are not provided here, but **Table 2** provides the percentage of the TAC that has been traditionally harvested in the incentive fisheries from 1995 to 2002.

The provisions in Section 2.6.1 provide two possible methods for managing access to the incentive fisheries – one for participants within a cooperative and the second for any participant eligible to participate in a cooperative. Under both options, fish in the incentive fishery would not be available for harvest until either the cooperative's or the individual's allocation has been harvested. Option 3 under Section 2.6.2 provides for accounting of incentive species for non-members of cooperatives. Under this option, an individual would begin fishing off the unallocated TAC in the incentive fishery only after the individual's allocation of incentive species is harvested. This provision could be applied to participants in the "low producing" fixed gear catcher vessel share holders under Alternative 2 and halibut and sablefish IFQ holders under either alternative.

Table 2: Percentage of Incentive Species Harvested by Area from 1995 - 2002

Year	Area	Arrowtooth Flounder	Deepwater Flatfish	Flathead Sole	Rex Sole	Shallow Water Flatfish
1995	WG	28	21	29	28	8
	CG	64	25	31	51	39
	EG *	20	7	1	9	1
1996	WG	40	4	40	69	10
	CG	79	26	43	74	69
	EG *	16	7	4	10	3
1997	WG	53	4	22	57	9
	CG	50	72	39	44	57
	EG *	23	32	3	7	4
1998	WG	60	5	28	37	6
	CG	38	59	23	40	25
	EG *	8	3	0	1	8
1999	WG	74	9	9	51	6
	CG	48	68	14	44	18
	WYAK	15	23	1	5	2
2000	WG	124	10	13	72	12
	CG	71	30	25	48	49
	WYAK	6	9	1	0	6
2001	WG	77	6	30	35	5
	CG	54	25	26	44	46
	WYAK	8	9	0	0	0
2002	WG	77	11	21	31	6
	CG	60	24	34	47	53
	WYAK	2	0	0	0	0
95 - 02 Ave.	**WG**	**67 %**	**9 %**	**24 %**	**48 %**	**8 %**
	CG	**58 %**	**41 %**	**29 %**	**49 %**	**45 %**
	EG/WYAK	**12 %**	**11 %**	**1 %**	**4 %**	**3 %**

Note: * Until 1999, there was not a separate West Yakutat allocation for these species.

As with the open access fishery, adequate bycatch would be required in order to effectively harvest the target species in the incentive fishery, and many of the same catch accounting and monitoring problems would need to be addressed in the incentive fishery. However, the eligibility criteria in Section 2.6.1 indicate that participants would still need to retain adequate harvest shares of bycatch and PSC in order to participate in the incentive fishery. For fisheries that are constrained by bycatch and PSC, this requirement provides additional management control.

Participants in the incentive fishery would not be competing for bycatch and PSC as well as incentive fish because they will have individual bycatch shares. NMFS would still need to monitor target species harvest rates in the incentive fishery relative to bycatch harvest rates to ensure that the overall incentive fishery harvests were not exceeded, but in cases where the bycatch harvest rates are not greater than the incentive fishery harvest rates, real-time reporting of bycatch harvest shares could be sufficient to monitor overall catch. Generally, participants will have the same issues of bycatch monitoring in the incentive fisheries as in the rationalized fisheries, because both will be subject to bycatch shares.